



MEMORANDUM

To: Members, ATILS
From: Randall Difuntorum, ATILS Staff
Date: March 26, 2019
Re: ATILS – Development of a Survey

Attachments:

1. Rebecca Sandefur, Legal Tech for Non-lawyers: Report of the Survey of U.S. Legal Technologies, Executive Summary 2019 (Appendices not included.)
2. State Bar of California Legal Malpractice Survey 2018
3. PRWeb Article re 2018 Harris Poll for Your Lawyers Online

Synopsis:

This memorandum introduces the topic of a survey to acquire data that will inform ATILS consideration of regulatory reforms. Also provided are examples of data currently available from selected other surveys. The ATILS survey will be conducted by the National Opinion Research Center (“NORC”), an independent 501(c)3 research corporation. NORC will interview a sample of California adults to measure public opinion regarding the use of technology based tools to deliver legal services to consumers. In developing topics for NORC to prepare as survey questions, ATILS should consider the data that has been collected by other surveys.

Background:

The proposed survey should reach a representative sample of consumers. Accordingly, the questions prepared for this survey should be aimed at that audience. The survey might not necessarily reach lawyers, technologists, legal services providers or entrepreneurs. However, the survey will not be the only source of input because public comment will be solicited on ATILS’ tentative report and recommendation.¹ The tentative report and recommendation will be submitted to the Board of Trustees (“Board”) with a request that the Board authorize a public hearing as well as a 60-day public comment period. The public hearing is being planned for August 10, 2019 in San Francisco which coincides with the ABA Annual Meeting in San Francisco. Lawyers, technologists, legal services providers and entrepreneurs can be included in the outreach efforts for public comment and testimony on the ATILS tentative report and recommendation.

The combination of data on public opinion from the survey and outreach efforts for written comments and testimony on the tentative report and recommendation should provide useful information for ATILS to evaluate its tentative recommendations.

¹ ATILS should complete the tentative report and recommendation at the June 28, 2019 ATILS meeting.

Discussion:

The survey results and public comment received should be helpful in addressing questions that are likely to be asked about ATILS recommendations for regulatory reform regardless of what those recommendations might be. Among the questions that are likely to be asked about any ATILS recommendations for regulatory reform are the following two questions:

1. Are ATILS recommended reforms likely to improve access for consumers who are indigent or have lower incomes?
2. To what extent, if any, would ATILS recommended reforms account for traditional protections of an attorney-client relationship, such as the evidentiary attorney-client privilege?

Regarding the first question that might be asked about ATILS regulatory reforms, Rebecca Sandefur's executive summary of "[Legal Tech for Non-lawyers: Report of the Survey of U.S. Legal Technologies](#)" includes some relevant data. (A copy is provided as Attachment 1.) For example, in the summary it is observed that: "To use digital tools, people need access to the internet. ¶ Americans access the internet in range of ways: through home broadband, through their cell phones, and using computers they have access to at work or in a public space like a library." The executive summary provides a table of internet access in the U.S. that includes income as one key factor. The survey data reveals that 21% of persons with an income of less than \$30,000 are dependent on smartphone use while 53% use a home broadband network. This contrasts with the use by persons with incomes of \$75,000 or more as 93% of these persons use home broadband and only 5% are dependent on smartphone use. Based on this, it might be inferred that a high dependence on smartphone use to access the internet might be a significant barrier for accessing technology based tools that involve large internet data transfer costs.

Regarding the second question that might be asked about ATILS regulatory reforms, there is helpful data collected by the "[State Bar of California Legal Malpractice Survey 2018](#)." (A copy is provided as Attachment 2.) This survey was conducted by NORC. One question included in this survey is: "Q6. For each of the following terms, please chose which statement most accurately describes your understanding of the that term." The options were: "I have never heard this term;" "I have heard this term but do not know what it means;" "I have heard this term and know what it means;" and "DK/SKP" [don't know/skip]. "Attorney client privilege" is one of the terms surveyed and the data is shown below.

NORC 11/26-12/11/2018 (1,038 adults surveyed)	I have never heard of this term	I have heard this term but do not know what it means	I have heard this term and know what it means	DK/SKP
Attorney client privilege	12%	17%	71%	1%

Conclusion:

The foregoing discussion offers just two examples of existing survey data that ought to be considered in ATILS effort to craft its own survey topics.² To the extent possible, given the limited number of questions involved in any survey exercise, ATILS should consider topics and questions that complement or further the data analysis made possible by information already collected by other relevant surveys.

² There is also a December, 2018 [Harris Poll](#) conducted for [Your Lawyers Online](#) that provides interesting results and may also be considered in developing the ATILS survey topics. An overview article is provided as Attachment 3. The data collected is posted in the ATILS Dropbox.

LEGAL TECH FOR NON-LAWYERS: REPORT OF THE SURVEY OF US LEGAL TECHNOLOGIES

Rebecca L. Sandefur, with the assistance of Alice Chang, Taemesha Hyder, Sajid Khurram,
Elizabeth Prete, Matthew Schneider, and Noah Tate.

EXECUTIVE SUMMARY

Legal technology is a rapidly developing field. It includes tools targeted at a range of different user groups, including lawyers, law firms, corporations, in-house legal departments, court systems, community organizations, and individual users who are not trained as attorneys. Some tools do legal work; others track and manage it. Still others are “under the hood,” allowing developers to more easily produce legal tools.

With funding from the Open Society Foundations, the Survey of US Legal Technologies sought to identify existing digital technologies that assist with justice problems in US jurisdictions and include among their user groups non-lawyers, whether individual members of the public working on their own justice problems or non-lawyers such as social workers or community organizers working directly with the public. The main findings of the Survey are:

- Over 320 digital legal tools for nonlawyer users exist for US jurisdictions, offering assistance with a range of both criminal (*e.g.*, arrest, police stops, expungement) and civil (*e.g.*, family, housing, health, employment) justice problems.
- Just over half of tools (52%) assist the user in taking some action on a justice problem, such as producing a legal document, compiling evidence, diagnosing a legal problem, or resolving a dispute.
- Using many tools requires resources or capabilities that some groups and communities are unlikely to have. The same groups often unable to access traditional lawyer assistance – such as people with low incomes, racial minorities, and people with lower levels of education – are also less likely to be able to use digital tools.
- Many tools reflect outdated design standards, presenting long lists, long articles, and lots of text.
- Tools are both restricted and limited in the services they provide. Few offer more than one function. A large component are simply repositories of information about the law. Few tools aid users in diagnosing legal aspects of problems they experience.
- The types of justice problems served by the tools, while often important, only partly match the types of justice problems most commonly reported by Americans.
- Many tools are free to use, but a substantial minority charge the user.

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THE UNIVERSE OF LEGAL TECHNOLOGIES

Legal technology is a rapidly developing field, and includes tools targeted at a range of different user groups, including lawyers, law firms, corporations, in-house legal departments, court systems, community organizations, and individual users who are not trained as attorneys. Some of these tools do legal work, while others track and manage legal work, and still others are “under the hood,” allowing tool developers to more easily produce legal technologies. The focus of the present project is on tools that non-lawyers may use to diagnose, understand, or take action on legal problems, whether those non-lawyers are using the tools to work on their own problems or are working to assist others with justice problems, for example in their work as staff of community organizations, courts, or social services providers.

In a field with such diffuse activity and rapid development, producing a complete and definitive list of technologies targeted at any user group is impossible: new technologies are born and die almost daily, and there is no registry of such tools. Thus, while this project’s strategy for identifying the universe of such technologies was expansive, no such effort can claim to be comprehensive. The search for technologies relied on existing lists compiled for a range of different purposes, on searches in repositories where users may find such applications, and on outreach to people whose work was likely to make them aware of such tools (see Appendix A for details).

The results of this activity produced the Survey of US Legal Technologies, funded by a grant from the Open Society Foundations. The Survey reports on the state of the field as of Fall 2018.

The Survey identified 322 technologies designed for use by non-lawyers in US jurisdictions (see Appendix B for a listing). An important focus of this research project is access to justice by low-income communities and others who currently have restricted access to law and legal services. The universe of tools therefore includes the state-wide legal resource websites provided in every state and hosted by legal aid agencies, as well as a range of resources targeting low-income people and other vulnerable groups.

Analysis of the data from the Survey explored the following questions:

- What kinds of justice problems do the tools assist with?
- What kinds of specific tasks do the tools assist with?
- How do the types of justice problems and areas of law served compare with the kinds of justice problems and needs people actually have?
- What groups of users are likely to be able to use the tools?

WHAT DO THE TOOLS DO?

Digital legal tools exist in the form of websites and of applications that can be downloaded to a mobile phone or other device. They exist for many areas of law in which Americans report having justice problems. However, the services most tools offer in those areas do not match well with what is known about people's needs for assistance.

Tools come in a range of genres. One group of tools consists of legal dictionaries, applications that give access to the US constitution, or applications that compile information about the legality of some activity that differs from state to state, like possession of marijuana for recreational use or laws regulating concealed firearms or knives. Another group of tools are basically compilations of legal information targeted at a specific population, such as low-income residents of a state. Sometimes this legal information is supplemented by official legal forms for acting on some kinds of justice problems. On some websites, forms must be downloaded, printed and filled in by hand, while on others the tool facilitates the user in completing the form or other document on line and may even send the document on to its intended recipient, like a court or a service provider. Another group of tools are essentially lawyer referral services. A few tools provide extensive services for specific justice problems. These tools diagnose legal problems, compile evidence necessary for making a claim about the problem, and enable the user to act. For example, JustFix assists users in putting together a complaint to a landlord about a habitability problem in an apartment, and then sends the complaint letter. Tools offering such extensive services are rare.

AREAS OF LAW SERVED BY EXISTING TOOLS

About a fifth of tools (22%) claim to assist users with problems in any area of law. Most tools, however, specialize in one or a few areas.

Existing tools target a wide range of types of justice problems. Table 1 reports the most prevalent areas of law existing tools serve. About half of tools (51%) offer assistance with problems related to criminal justice system involvement, such as police stops, arrest, bail, and expungement. Almost a third of tools (31%) assist with matters of family law, including divorce, custody, guardianships, conservatorships, and adoption. A quarter of tools offer services for consumer problems, including buying and selling goods and services by individuals (e.g., cell phone contracts, goods bought on the internet), warranties, debt, credit and bankruptcy. About a fifth of tools (22%) help with housing issues unrelated to the transfer of real property, assisting with landlord-tenant issues such as eviction and problems with housing conditions. About a fifth of tools (23%) provide assistance with real property matters, like purchase and title search. Another

group of tools (22%) offers assistance with matters related to employment, like the calculation of overtime, problems with employers or interactions with unions. Another group of tools (21%) assists with legal problems related to health.

Table 1. Principal Areas of Service: All Tools

Field of Law	Tools Serving
Criminal	51%
Family	31%
Consumer (including bankruptcy)	25%
Real estate	23%
Civil Rights	23%
Employment	22%
Housing	22%
Health	21%

Notes:

N=322 technologies

Source: *Survey of US Legal Technologies*

Additional tools exist for a range of other areas of law, including contract, immigration, intellectual property, personal injury, and traffic.

SERVICES TOOLS PROVIDE

No existing tool is a “one stop shop” for justice problems generally. For example, there is no tool that consists of a natural language interface that diagnoses the legal aspects of a user’s life situation, offers possible routes to solution, and then facilitates taking action toward a solution by compiling evidence of a complaint and creating or filing a legal document with a court or other agency. A few tools do provide a fuller range of services for a specific type of justice problem. These tools take a user from identifying a problem, to considering options, to taking action on it themselves.

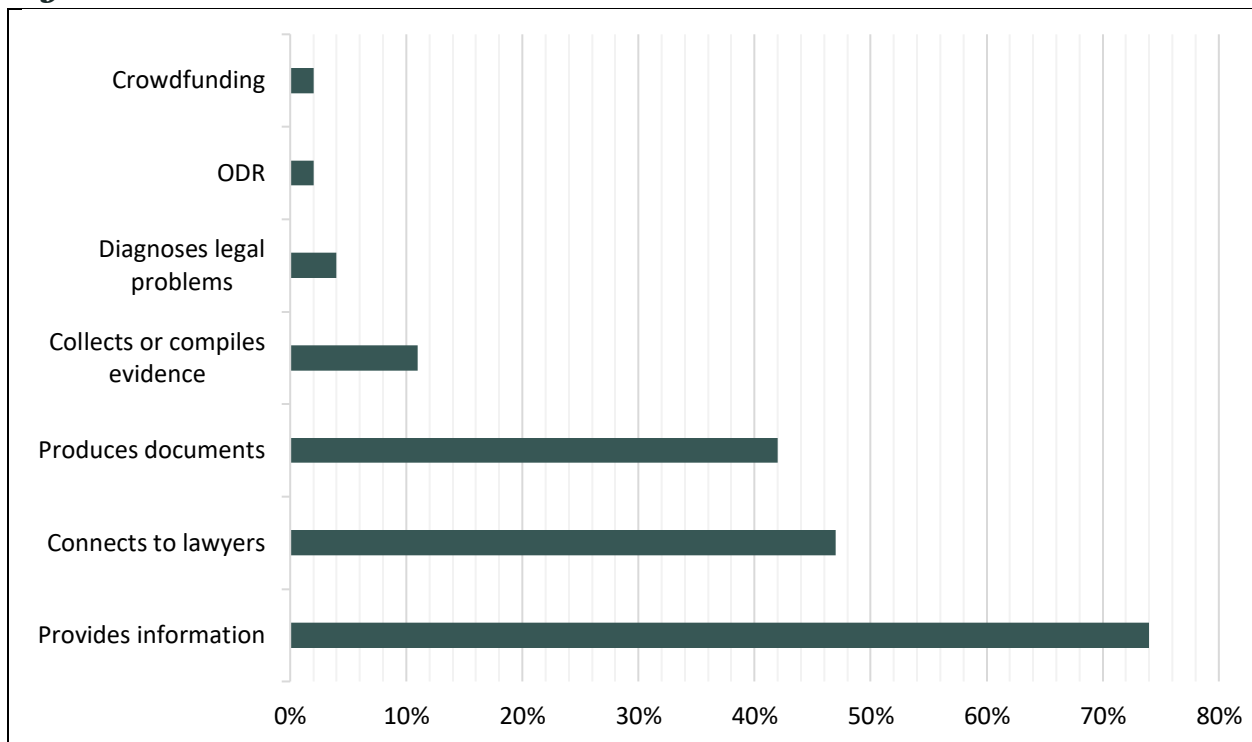
At present, most tools provide legal information or connections to lawyers, as Figure 1 shows. About three quarters of tools provide legal information of some type, and just under half connect people to attorneys. Most referrals to lawyers are “cold”: that is, the

user is given a list of attorneys selected by location or professed specialty, but no information is passed along to the attorney by the tool. About 15% of tools offer “warm” referrals, where the tool passes along information about the potential client and connects the client with the attorney.

Tools that facilitate a user in taking some action typically automate one piece of working on a justice problem, like diagnosing a problem as having legal aspects, consequences or remedies (*e.g.*, “my employer is committing wage theft”); or, compiling evidence for a complaint (*e.g.*, “here are the hours I worked for which I was not paid the mandated rate”); or, producing legal documents like parenting plans or contracts.

Just over half of tools go at least one step toward empowering users to take some concrete action on their own to work on a justice problem. As Figure 1 shows, around two fifths of tools assist the user in creating documents, like powers of attorney, forms to file with courts, or letters of complaint. A handful of tools assist the user in compiling evidence, like hours worked in a case of potential wage theft or pictures of housing code violations in a habitability issue. A few tools help the user to diagnose legal problems. A few provide online dispute resolution services, and a few offer crowdfunding platforms for bail or litigation costs.

Figure 1. Services Tools Provide

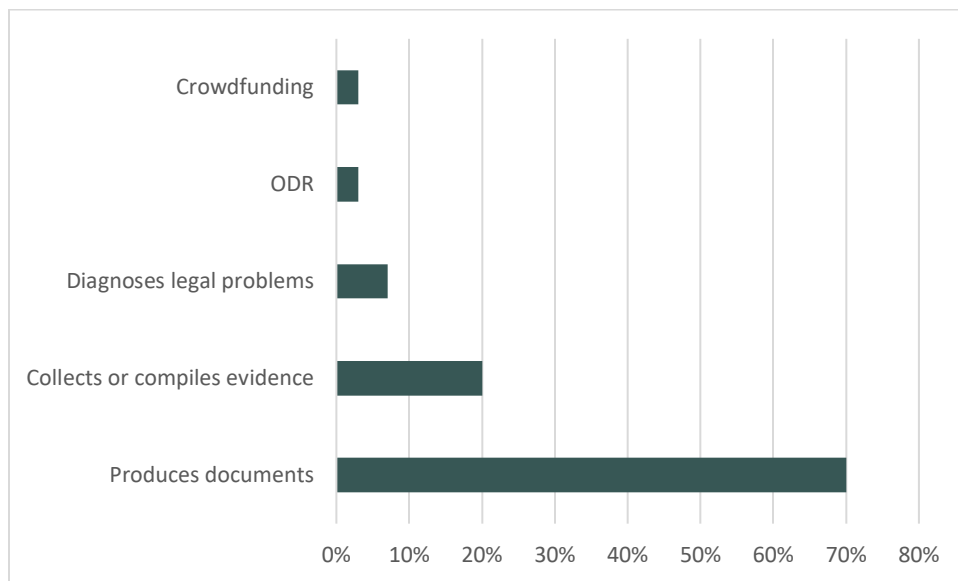


Notes: n=322 technologies

Source: Survey of US Legal Technologies

Among tools that facilitate user action, the most common task is the production of documents. As Figure 2 reports, 70% of tools that “do” something, create documents. A fifth of this group of tools help users compile evidence – for example, of a wage theft claim, of a housing code violation, or of abuse or neglect. The other functions are quite rare among existing tools.

Figure 2. Services Tools Provide: Tools that Facilitate User Action



n=167 technologies that facilitate user action.

Notes: A tool facilitates user action if it helps the user complete a task related to taking action on a legal problem without assistance from an attorney. This includes diagnosing legal problems, compiling evidence, creating documents, providing on-line dispute resolution, or crowdfunding legal actions.

Source: *Survey of US Legal Technologies*

WHAT TOOLS PROVIDE VERSUS WHAT PEOPLE WANT OR NEED

There is a substantial mismatch between the services tools offer and what is known about the assistance wanted or needed by the American public. While some tools do exist that serve the broad legal problem areas Americans most frequently encounter, the services the tools actually offer are not those that research suggests Americans want or need when they face justice problems.

Besides information and lawyer referral, the most common service offered by existing tools is the creation of documents. Tools assist people in creating many different kinds of documents, including advance directives, contracts, wills, powers of attorney, parenting plans, petitions for divorce, patent applications, answers to eviction, orders to show cause, and letters of complaint. Many Americans could certainly benefit from this assistance, but for the most part the tasks of document creation come rather late in the game in the life cycle of a justice problem – once someone has already figured out that some kind of legal problem exists on which she could take some sort of formal action. Since most Americans facing justice problems do not recognize legal aspects of their problems, existing tools are not useful for most problems.

TYPES OF ASSISTANCE AMERICANS WANT OR NEED

One of the most striking findings of recent research is that while many Americans have civil justice problems, they typically do not recognize those problems as having legal aspects or remedies (Sandefur 2014). For example, someone will realize that an elderly parent needs assistance with his financial affairs. Or, a grandparent may take in a grandchild whose parent cannot care for her. Or, an employee may be furious at an employer for not paying overtime wages for holiday and weekend hours. Many people in these situations, however, will not recognize that their care tasks for parents or grandchildren have legal aspects, and can be facilitated by legal instruments like limited powers of attorney or guardianship. And many will attribute the employer's behavior to the employer's personal flaws rather than recognizing the situation as the legally actionable problem of wage theft.

In a context where many people experience justice problems that they do not recognize as legal or remediable, tools that offer diagnosis – explaining to someone that their problem involves specific legal aspects, such as violations of housing codes or wage and hour laws – and provide options for response could be particularly valuable. There are very few such tools.

TYPES OF JUSTICE PROBLEMS AMERICANS HAVE

In the United States, most Americans are experiencing at least one civil justice problem (Legal Services Corporation 2017a; Sandefur 2016). From surveys of the American public, the kinds of problems that Americans report most commonly involve:

- Household finances
- Health and insurance

- Consumer problems
- Family and divorce
- Livelihood (employment, benefits)
- Housing

US civil justice surveys have typically not asked people about immigration problems and, because they have been focused on civil justice, have not asked about criminal justice system involvement (Consortium on Legal Services and the Public 1994; Legal Services Corporation 2017a; Sandefur 2014; see also Pleasence 2016).

Other information suggests that immigration and criminal problems may affect many millions of Americans. According to the Migration Policy Institute (2016b), immigrants of all types – documented, undocumented, naturalized, etc. – comprised 13.5% of the US population in 2016. In that same year, law enforcement authorities performed an estimated 10.7 million arrests for crimes, or about one arrest for every 30 US residents (Federal Bureau of Investigation 2016). And the US is well-known for mass incarceration, which creates a whole range of collateral consequences that can become justice problems related to expungement, legal debt, and the like (Harris 2017; Selbin, McCrary, and Epstein 2017).

Tools do exist that offer some assistance in the areas of law where Americans most commonly experience justice problems, but the services they offer for those problems are limited, focused mainly on providing legal information, referring users to attorneys, and creating different kinds of documents.

WHO IS ABLE TO USE THE TOOLS?

In order to use digital tools to learn about and take action on legal problems, people at minimum need access to specific resources and possession of specific capabilities. While many Americans do possess the basic capabilities necessary to use digital tools and have access to the necessary resources, a substantial minority do not. This substantial minority includes many members of groups that report higher rates of civil justice problems or are otherwise vulnerable, like poor people and non-Whites.

ACCESS TO THE INTERNET

To use digital tools, people need access to the internet. A majority of American adults are internet users: 89% of US adults were internet users in 2018. While there are no longer significant racial disparities in internet use, there are important differences by income and education. For example, virtually all adults (98%) earning \$75,000 or more each year use the internet, while four-fifths (81%) of those earning less than \$30,000 a year do so. Similarly, 65% of those with less than a high school education use the internet, in comparison with 97% of college graduates (PEW 2018).

Americans access the internet in a range of ways: through home broadband, through their cell phones, and using computers they have access to at work or in a public space like a library. How people access the internet affects their ability to use legal technologies. For example, some digital legal tools are quite data intensive, which means that people who have cell phone-only access to the internet may incur large data costs in using the tools (Rostain 2018). People with low incomes, racial minorities and people with lower levels of education are among the groups most likely to be dependent on cell phones for personal internet access, as Table 2 shows.

Table 2. Access to the Internet in the US: 2016

	Home broadband users	Smartphone dependent internet users
Race	73%	12%
Whites	78%	9%
Blacks	65%	15%
Hispanics	58%	35%
Education		
< high school	34%	27%
College graduate	91%	5%
Income		
< \$30,000	53%	21%
\$75,000 +	93%	5%
Type of community		
Urban	73%	12%
Suburban	76%	12%
Rural	63%	14%

Notes: Smartphone-dependent users are those who do not have home broadband access but own smartphones.

Source: PEW Research Center 2018.

TEXT-DEPENDENCE AND ADVANCED READING LEVELS

Most digital legal tools are text-based, in the sense that written words are the principal and often the only way in which the tool communicates with the user. Table 3 reports on the capabilities of Americans to use text-based or English-only tools. The table also reports on whether tools can be used by people who have limited English facility or cannot read text. Many tools created for US jurisdictions are offered in English only. Just over 8% of US adults have limited proficiency in English, and therefore are likely to be unable to use English-only tools. About one in seven US adults (14.5%) do not have basic literacy skills. Fully 75% of existing tools require English-language facility. Most tools are designed to be used only by people who are both sighted and literate in at least one language. Only 16% of tools provide at least some of the material offered through a means other than written text, such as a video.

Table 3. User Capabilities and Digital Legal Tool Capabilities

User capabilities		Tool capabilities	
Limited English Proficiency	8.1%	Available in languages other than English ^a	25%
Adults with below basic literacy	14.5%	Usable by people who cannot read or cannot see text ^b	16%
Adults with visual disability	2.7%		
Aged 65+	6.4%		

Notes:

^a The most common available language is Spanish, but some tools provide multiple languages.

^b If a tool provided videos or audio for some material, it was coded as usable by this standard.

Sources: Migration Policy Institute 2016a; National Center for Education Statistics 2003; National Federation of the Blind 2017; Survey of US Legal Technologies.

Populations with restricted access to justice through traditional routes – those with lower incomes and less education – are also less likely to be able to use existing digital tools effectively, as these groups have average lower levels of English literacy. Tools designed specifically for low-income populations are as likely to be text-based as tools

designed for groups more likely to have higher levels of literacy. Tools designed for low-income communities often present information in long articles that are written at reading levels too advanced for intended users (Dyson and Schellenberg 2017; Legal Services Corporation 2017b).

Thus, people who are vision impaired, have low literacy, or are not proficient in English are poorly served by most existing tools.

FREE, FREEMIUM AND FEE-FOR-SERVICE

Many tools offer their services for free to users, while others offer some free services and then charge a fee for more extensive service, and some tools cannot be used without the user paying a fee. Roughly three quarters of existing tools are free to users.

BARRIERS AND OPPORTUNITIES

The Survey of US Legal Technologies reveals that the modal digital tool targeting nonlawyer users provides limited services: typically information about the law or a referral or connection to an attorney. The modal tool does little to facilitate a nonlawyer in taking any independent action on a justice problem. Many tools that offer free service are not usable by many people in low-income communities, because of limited internet access or barriers of language or literacy. While some of these limitations reflect current limitations in technology, the main engine of restriction is human actions and choices.

WHY DON'T TOOLS CORRESPOND MORE CLOSELY TO PEOPLE'S KNOWN NEEDS AND CAPABILITIES?

The services offered by existing legal digital tools and those that research suggests people want and need are poorly matched. Among the reasons for this, three stand out: the ecology of tool creation, outdated design processes, and the resource-strapped environment of tool development in the nonprofit sector.

No organization or market currently coordinates tool development. A wide range of different kinds of actors are working to develop digital legal tools: for-profit companies, startups, nonprofit organizations, and private individuals who create tools and offer them to the public through app stores like Google Play or iTunes. In the

United States, the creation and distribution of many services is coordinated substantially by markets for those services, where demand and competition are important factors. Most tools are not participating in a fee-for-service market, so consumer demand has less impact and tool creators are guided by other ideas about what tools the public may want.

Development of digital tools is usually provider-driven, reflecting the interests and beliefs of those offering the service, rather than the wants and needs of the intended user populations. Established techniques exist for creating tools through user-centered, user-driven, and collaborative design. However, with a few notable exceptions, these techniques have not often been used in the development of existing tools (Hagan 2018).

Matching tools to client needs requires knowledge of those needs and the capacity to adapt existing tools or create new ones that connect closely with those needs. Most of the nonprofit service providers working with low income populations do not have access to the resources of time, money and expertise necessary either to conduct a rigorous needs assessment for their service populations or to create or customize digital tools. Rather, they must use available products “off the shelf,” adapting them as they are able based on their understanding of what people might find useful.

Starting with the needs and perspectives of potential users of new tools would be the first step in creating a body of technologies that are more closely aligned with the justice problems Americans actually have and the kinds of assistance they want or need with those problems. A few tools have been developed in this way; more should be.

WHY DON'T TOOLS “DO” MORE?

Many existing tools may be conduits of information, but only about half assist their users in taking any kind of action on justice problems by automating one or more tasks. In part, the limited utility of many existing tools reflects the fact that most are not currently designed in close consultation with intended user groups. However, there are two other important factors that limit what existing digital legal tools can do: the legal profession’s robust monopoly on the provision of legal advice and the challenges of coordination in contemporary state court systems. Thus, a central responsibility for this situation rests with the justice system itself.

One of the most common tasks automated by existing tools is the creation of legal forms. Many working in this field look forward to a day when tools create forms accepted by courts and file them with the appropriate forum immediately upon

completion. While this is beginning to happen, implementing standardized forms and getting courts to accept them is a herculean task of coordination that requires every court in every county in a state accept a new way of doing its work. Even when rules change formally, clerks, judges and other courthouse staff can persist in older patterns, refusing to recognize documents that are officially approved by the court system. The barriers here are not technological, but human.

A key reason for the limitations in what available tools provide is the current regulatory regime for legal services in the United States, which limits most assistance with legal problems to services provided by licensed attorneys (Rhode and Ricca 2013). In particular, unlike in other jurisdictions (for example, the United Kingdom), non-lawyers in the United States are usually prohibited from offering legal advice. Non-lawyers engaged in providing services that look like legal advice are at risk of the legal profession's action against the unauthorized practice of law. As a way of avoiding this risk, most US tools stay in the realm of "legal information," general, publicly available information about the law and people's rights. Most tools do not offer diagnosis of the legal aspects of people's problems, suggest possible routes of action, or provide other services that would help move a problem toward resolution.

A growing evidence base suggests that non-lawyers can provide effective services for some kinds of justice problems without risk to consumer protection (see, *e.g.*, Rhode and Ricca 2013; Sandefur and Clarke 2018). This evidence base can help guide sensible revisions to the rules about unauthorized practice that would permit the expansion of what both human non-lawyers and digital tools can provide. At present, what is missing is the will to tackle these revisions.

CONCLUSION

Digital legal technologies hold promise to empower individuals and communities to identify, understand, and take action on their justice problems and to use the rights that are theirs under law. At this stage in the growth of this field of activity, realizing that promise is not a technological challenge, but rather a social one.

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State Bar of California Legal Malpractice 2018

Conducted by NORC at the University of Chicago for the State Bar of California

*Interviews: 11/26-12/11/2018
1038 adults*

*Margin of error:
4.17 percentage points at the 95% confidence level among all California adults*

NOTE: All results show percentages among all respondents, unless otherwise labeled.

"" indicates less than 0.5%*

"-" indicates 0%

Q1. First, have you or someone in your household ever experienced a situation where a lawyer was needed?

[MULTIPLE RESPONSES]

	NORC 11/26-12/11/2018
Yes, myself	48
Yes, someone in my household	30
No	31
DON'T KNOW/SKIPPED ON WEB/REFUSED	*

N=1038

If "Yes, myself" or "Yes, someone else in my household" at Q1

Q2. What was the most recent reason [you/someone in your household] needed a lawyer?

[OPEN END RESPONSE]

ATILS STAFF NOTE: An overview of the survey responses received for Q2 is attached at the end of this document.

If "Yes, myself" or "Yes, someone else in my household" at Q1

Q3. Thinking about the most recent time [you/someone in your household] needed a lawyer, which of the following actions did [you/they] take? If [you/they] took no action you can say that too.

	NORC 11/26-12/11/2018
[Handled on my own/They handled it on their own]	7
Consulted a lawyer but did not hire them	18
Hired a lawyer	68
Consulted a non-legal third party	3
Took no action	4
DON'T KNOW/SKIPPED ON WEB/REFUSED	*

N=745

If “Consulted a lawyer but did not hire them” or “Hired a lawyer” at QS3

Q4. How did [you find a/they find a] lawyer or other legal service?

[MULTIPLE RESPONSES]

	NORC 11/26-12/11/2018
Asked family and friends	53
Through a lawyer referral service	15
Used search engines like Google or Bing	19
Through social media platforms like Twitter/Facebook/Instagram/ LinkedIn/NextDoor	2
Searched the State Bar of California website	5
Searched other websites	5
Searched the Yellow Pages	5
Got a recommendation from [my/their] co-worker or employer	8
Got a recommendation from a union [I/they] belong to	1
Got a recommendation from a club or social group [I/they] belong to	3
Advertising on television, radio, or other media	4
Other	17
DON'T KNOW/SKIPPED ON WEB/REFUSED	-

N=652

Q5. [When you consulted with or chose to hire a lawyer/Suppose you needed to hire a lawyer], how important [would/were] each of the following factors [be] in making your choice?

NORC 11/26-12/11/2018	Not important at all	Slightly important	Moderately important	Very important	Extremely important	DK/SKP /REF
Cost	3	8	22	38	29	1
Experience	1	3	10	44	42	1
Reputation	3	4	14	42	37	1
The information the lawyer presents on their website	14	15	28	25	15	2
That they have legal malpractice insurance	10	14	23	32	20	1
That they are close to my house or office	13	23	37	20	7	1
That they were available during times convenient to me	4	11	28	37	19	1
That the referral came from a lawyer referral service	30	20	26	16	8	1
The reviews online or on social media	19	20	27	22	11	1
That I know them personally	46	17	19	12	6	1
That someone I know has hired or recommended them	12	16	26	32	13	1
The information about the lawyer on the State Bar of California website	11	12	25	33	17	2
Advertisements about the lawyer	37	24	24	9	4	2
That the lawyer specializes in a certain area of law	2	5	19	44	29	2

N= 1038

Q6. For each of the following terms, please choose which statement most accurately describes your understanding of that term.

NORC 11/26-12/11/2018	I have never heard this term	I have heard this term but do not know what it means	I have heard this term and know what it means	DK/SKP /REF
Legal malpractice insurance	12	28	59	*
Professional liability insurance	20	32	47	1
Retainer fees and/or agreements	11	22	67	1
Contingency fees	18	37	44	1
Attorney client privilege	12	17	71	1
Conflict of interest	6	11	82	1
Bar licensing	10	17	72	1

N= 1038

Q7. Based on what you know, are all lawyers currently required to have legal malpractice insurance in order to practice law in the state of California, or not?

	NORC 11/26-12/11/2018
Yes, it is currently required	23
No, it is not currently required	10
Not sure/don't know	65
DON'T KNOW/SKIPPED ON WEB/REFUSED	1

N=1038

Q8. If lawyers do not have legal malpractice insurance, should they be required to disclose that information to potential clients, or not?

	NORC 11/26-12/11/2018
Yes, should be required	86
No, should not be required	12
DON'T KNOW/SKIPPED ON WEB/REFUSED	2

N=1038

If "Yes, should be required" at Q8

Q9. When should the lawyer disclose that they do not have legal malpractice insurance?

	NORC 11/26-12/11/2018
Before the client decides to hire them	84
At the time the client decides to hire them	15
DON'T KNOW/SKIPPED ON WEB/REFUSED	*

N=902

Q10. Do you think the State Bar of California website should include information about whether each lawyer has legal malpractice insurance, or not?

	NORC 11/26-12/11/2018
Yes	89
No	10
DON'T KNOW/SKIPPED ON WEB/REFUSED	1

N=1038

Q11. Do you think all lawyers should be required to have legal malpractice insurance in order to practice law in California, or not?

	NORC 11/26-12/11/2018
Yes, should be required	78
No, should not be required	21
DON'T KNOW/SKIPPED ON WEB/REFUSED	1

N=1038

If "Yes, should be required" at Q11

Q12. Lawyers who have legal malpractice insurance may charge higher fees to clients, to cover the cost of their insurance premiums. Given this information, do you think all lawyers should be required to have legal malpractice insurance in order to practice law in California?

	NORC 11/26-12/11/2018
Yes, should be required	86
No, should not be required	13
DON'T KNOW/SKIPPED ON WEB/REFUSED	1

N=787

Q13. Suppose a proposal was on the ballot to require California lawyers to have legal malpractice insurance. If this proposal passed, on average lawyers would increase their hourly fees by [\$10/\$20/\$30/\$40/\$50]. Would you vote favor or against such a proposal to require legal malpractice insurance?

[RESPONSE OPTIONS ROTATED]

	NORC 11/26-12/11/2018
Vote in favor	57
Vote against	41
DON'T KNOW/SKIPPED ON WEB/REFUSED	2

N=1038

If "Working – as a paid employee" or "Working – self-employed" at EMPLOY

Q14. Are you employed full-time or part-time?

	NORC 11/26-12/11/2018
Full-time	75
Part-time	23
DON'T KNOW/SKIPPED ON WEB/REFUSED	2

N=610

If “Working – as a paid employee” or “Working – self-employed” at EMPLOY

Q15. Would you say your job is a white collar job, a blue collar job, or something else?

White collar work is usually done in an office or other professional environment. Blue collar refers to jobs that involve manual labor.

	NORC 11/26-12/11/2018
White collar	55
Blue collar	27
Something else	17
DON'T KNOW/SKIPPED ON WEB/REFUSED	1

N=610

Q16. Are you or is anyone in your household a lawyer or work for a lawyer?

[MULTIPLE RESPONSES]

	NORC 11/26-12/11/2018
Yes, I am a lawyer	1
Yes, someone else in the household is a lawyer	5
Yes, I work for a lawyer	2
Yes, someone else in the household works for a lawyer	1
No one in the household is a lawyer or works for a lawyer	92
DON'T KNOW/SKIPPED ON WEB/REFUSED	1

N=1038

SURV_LANG. Survey interview language

	NORC 11/26-12/11/2018
English	93
Spanish	7

N=1038

SURV_MODE. Survey interview mode

	NORC 11/26-12/11/2018
Online	89
Phone	11

N=1038

DEVICE. Device

	NORC 11/26-12/11/2018
Desktop	35
Phone Interview (not online)	11
Smartphone	50
Tablet	5

N=1038

GENDER. Gender

	NORC 11/26-12/11/2018
Male	49
Female	51

N=1038

AGE4. Age – 4 categories

	NORC 11/26-12/11/2018
18-29	22
30-44	28
45-59	24
60+	26

N=1038

AGE7. Age – 7 categories

	NORC 11/26-12/11/2018
18-24	12
25-34	20
35-44	19
45-54	14
55-64	17
65-74	12
75+	6

N=1038

RACETHNICITY. Combined race/ethnicity

	NORC 11/26-12/11/2018
White, non-Hispanic	41
Black, non-Hispanic	6
Other, non-Hispanic	2
Hispanic	35
2+, non-Hispanic	5
Asian, non-Hispanic	12

N=1038

EDUC. Education (highest degree received)

	NORC 11/26-12/11/2018
No formal education	1
1 st , 2 nd , 3 rd , or 4 th grade	*
5 th or 6 th grade	2
7 th or 8 th grade	1
9 th grade	1
10 th grade	1
11 th grade	3
12 th grade, no diploma	5
High school graduate – high school diploma or equivalent (GED)	23
Some college, no degree	21
Associate degree	8
Bachelor's degree	20
Master's degree	9
Professional or doctorate degree	4

N=1038

EDUC4. 4-level education

	NORC 11/26-12/11/2018
No high school diploma	14
High school graduate or equivalent	23
Some college	29
Bachelor's degree or above	34

N=1038

Marit. Are you...

	NORC 11/26-12/11/2018
Married	45
Widowed	4
Divorced	12
Separated	2
Never married	26
Living with partner	11

N=1038

Emp. Which statement best describes your current employment status?

	NORC 11/26-12/11/2018
Working (NET)	59
Working – as a paid employee	47
Working – self-employed	12
Not working (NET)	41
Not working – on temporary layoff from a job	1
Not working – looking for work	8
Not working – retired	16
Not working – disabled	8
Not working – other	9

N=1038

INCOME. Household income

	NORC 11/26-12/11/2018
Less than \$50,000 (NET)	42
Less than \$5,000	4
\$5,000 to \$9,999	3
\$10,000 to \$14,999	5
\$15,000 to \$19,999	5
\$20,000 to \$24,999	6
\$25,000 to \$29,999	4
\$30,000 to \$34,999	6
\$35,000 to \$39,999	3
\$40,000 to \$49,999	6
\$50,000 or more (NET)	58
\$50,000 to \$59,999	8
\$60,000 to \$74,999	10
\$75,000 to \$84,999	6
\$85,000 to \$99,999	10
\$100,000 to \$124,999	9
\$125,000 to \$149,999	6
\$150,000 to \$174,999	3
\$175,000 to \$199,999	2
\$200,000 or more	5

N=1038

REGION9. Region – 9 level

	NORC 11/26-12/11/2018
New England	-
Mid-Atlantic	-
East North Central	-
West North Central	-
South Atlantic	-
East South Central	-
West South Central	-
Mountain	-
Pacific	100

N=1038

REGION4. Region – 4 level

	NORC 11/26-12/11/2018
Northeast	-
Midwest	-
South	-
West	100

N=1038

METRO. Metropolitan area flag

	NORC 11/26-12/11/2018
Non-metro area	2
Metro area	98

N=1038

INTERNET. Household internet access

	NORC 11/26-12/11/2018
Non-internet household	16
Internet household	84

N=1038

HOUSING. Home ownership

	NORC 11/26-12/11/2018
Owned or being bought by you or someone in your household	57
Rented for cash	40
Occupied without payment of cash rent	2

N=1038

HOME_TYPE. Type of building of panelists' residence

	NORC 11/26-12/11/2018
A one-family house detached from any other house	63
A one-family house attached to one or more houses	9
A building with 2 or more apartments	24
A mobile home or trailer	4
Boat, RV, van, etc.	*

N=1038

PHONESERVICE. Telephone service for the household

	NORC 11/26-12/11/2018
Landline telephone only	5
Have a landline, but mostly use cellphone	27
Have a cellphone, but mostly use landline	12
Cellphone only	55
No telephone service	1

N=1038

HHSIZE. Household size (including children)

	NORC 11/26-12/11/2018
1	17
2	28
3	13
4	15
5	9
6+	18

N=1038

HH01. Number of HH members age 0-1

	NORC 11/26-12/11/2018
0	97
1	3
2	*

N=1038

HH25. Number of HH members age 2-5

	NORC 11/26-12/11/2018
0	85
1	9
2	5
3	*
4	*

N=1038

HH612. Number of HH members age 6-12

	NORC 11/26-12/11/2018
0	79
1	12
2	7
3	1
4	1
5	*
6	*
7	-
8	*

N=1038

HH1317. Number of HH members age 13-17

	NORC 11/26-12/11/2018
0	81
1	13
2	5
3	*
4	1

N=1038

HH18OV. Number of HH members age 18+

	NORC 11/26-12/11/2018
1	21
2	43
3	16
4	8
5	8
6	1
7	1
8	*
9	*
10	*

N=1038

Excerpt from State Bar of California Legal Malpractice Survey (2018)

Question #2: What was the most recent reason [you/or someone in your household] needed a lawyer?

Answers:	Anti-Trust	Juvenile Criminal Matter
	Assault and Battery	Legal Advice
	Bankruptcy	Medical Malpractice
	Breach of Contract	Misconduct
	California Fires	Name Change
	Car Accident	Non-Disclosure Agreement
	Child Support	Personal Injury
	Citizenship	Probate
	Class Action Lawsuit	Real Estate
	Contracts	Restraining Order
	Copyright	Royalties
	Credit Issues	Sexual Assault Crime
	Criminal Matter	S-Corporation
	Death	Social Security
	Disability	Special Needs Assistance
	Discrimination	Taxes
	Divorce	VA Benefits
	DMV Ticket	Vandalism
	Drugs	Wills/Trust
	DUI	Worker's Compensation
	Employment Issue	
	Eviction	
	Falsely Accused	
	Family Law/Custody	
	Fees for Attorneys	
	Foreclosure	
	Health Insurance	
	Hit and Run	
	Identity Theft	
	Immigration	



Survey: Americans Believe Legal Fees are Extremely Expensive, Wish There Were Alternatives to Traditional Lawyers

Over Two-Thirds of Americans (69%) Say They Would Use Online Legal Services to Save Money, Underscoring the Relevance of Virtual Law Firms like Your Lawyers Online

PORTLAND, Ore. ([PRWEB](#)) December 10, 2018 -- Results from a new survey conducted online by The Harris Poll on behalf of [Your Lawyers Online](#) show there is nearly universal agreement among Americans that legal fees today are extremely expensive, with over 9 in 10 (91 percent) agreeing, and they wish there were alternatives to traditional lawyers when dealing with small legal matters (82 percent). More than two-thirds (69 percent) of American adults say they would be willing to use online legal services if it would save them money. Younger adults (76% of those age 18-54 vs. 65% of those age 55+), those who have lower household incomes (72% of those with total household income of less than \$100k vs. 62% of those with \$100k or more), and are parents (78% of those who are parents of children under 18 vs. 66% who are not) are more likely to say this.

The survey findings highlight the relevance of virtual law firms such as Your Lawyers Online, which replace traditional “fee-for-time” models with “fee-for-service” solutions that offer unbundled legal services to save users time and money—especially on small legal matters like reviewing legal documents or establishing a will.

“I really think virtual law firms like Your Lawyers Online represent the future of law in a digital age where Americans are seeking efficiency and value over cumbersome and costly traditions,” says Your Lawyers Online Founder & CEO Nicole Schaefer, a family law attorney and entrepreneur based in Portland, OR. “There is this exclusive mystique around law that keeps people without a law degree feeling mystified by the process, which is why they usually end up paying so much for legal services. We are setting out to change that by making the process more accessible to everyone.”

Additional highlights from the survey are below:

- **Nearly Three-Quarters Would Use Online Legal Services:** Around three-quarters of those between the ages of 18 and 44 (76 percent), those with household incomes between \$50K and \$99.9K (74 percent) as well as parents with children under 18 years old (78 percent) would use online legal services if it would save them money.
- **Americans Want Alternatives to Lawyers:** Nearly everyone with a household income of \$50K to \$74.9K (87 percent) wish there were alternatives to traditional lawyers when dealing with small legal matters (i.e. reviewing legal documents or establishing a will).
- **Even Those With Higher Household Incomes Agree:** Even those with household incomes of \$100K agree that legal fees are extremely expensive (91 percent) and 79% say they wish there were an alternative to traditional lawyers when dealing with small legal matters.

This survey was conducted online within the United States by The Harris Poll on behalf of Your Lawyers Online from December 4-6, 2018 among 2,003 U.S. adults ages 18 and older. This online survey is not based on a probability sample and therefore no estimate of theoretical sampling error can be calculated. For complete survey methodology, including weighting variables and subgroup sample sizes, please contact Nicole Schaefer, Founder & CEO of Your Lawyers Online, at 971-288-1046.

Your Lawyers Online offers automated, secured and affordable solutions, and can even double as a traditional law firm on an as-needed basis. In addition, monthly memberships provide a 10 percent discount for all legal



services booked through the site. For more information, visit <https://yourlawyersonline.com/>

About Your Lawyers Online

[Your Lawyers Online](#) is a virtual law firm of online legal providers specializing in divorce, probate, business and animal law. By eliminating the “fee for time” model and replacing it with a “fee for service” model, the site’s unbundled legal services save users time and money. The platform offers an automated, secure and affordable solution, and doubles as a traditional law firm on an as-needed basis. Your Lawyers Online currently offers up-to-date information and expertise in business law, animal law and family law, and a monthly membership that provides a 10 percent discount on all legal services booked through the site.

About The Harris Poll

[The Harris Poll](#) is one of the longest-running surveys in the U.S. tracking public opinion, motivations and social sentiment since 1963 that is now part of Harris Insights & Analytics, a global consulting and market research firm that delivers social intelligence for transformational times. We work with clients in three primary areas; building a twenty-first-century corporate reputation, crafting brand strategy and performance tracking, and earning organic media through public relations research. Our mission is to provide insights and advisory to help leaders make the best decisions possible.

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